IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 3008 OF 2006

M/s. Cipla Ltd. ... Petitioners.

V/s.

Shramik Mahasangh & Anr. ... Respondents.

...

Mr. Soli Cooper with Mr. P.B. Patel i/b. Sanjay Udeshi & Co. for the Petitioners.

Mr. Arshad Shaikh i/b. Vinod Shetty for the Respondents.

.....

CORAM : DR. D.Y. CHANDRACHUD,J.

07th DECEMBER, 2006.

P.C. :

1. The Industrial Court by its order dated 14th November 2006 which is impugned in these proceedings has during the pendency of a complaint of unfair labour practices stayed the operation of an order of transfer issued by the Petitioner. As a result of the order of transfer, workmen who are engaged in the factory at Vikhroli have been transferred to the establishment of the Petitioner at Patalganga. However, 20 employees have been retained, at Vikhroli (an additional one being a workman who had only one month's service left who had also been retained). At the hearing of the Petition, on the suggestion of the Court, Counsel appearing on behalf of the Petitioner and the Respondent - Union had sought an adjournment on 27th November 2006 to explore the

possibility of an amicable solution to the dispute. The matter was placed for hearing today. During the course of the hearing suggestions have been exchanged between the parties. An authorised representative of the Petitioner (Shri S.V. Iyyer, Head Human Resources) is present before the Court and on behalf of the First Respondent, the Office bearers of the Union are present. Counsel appearing on behalf of the parties have requested the Court to record the following terms of settlement :-

(i) The Petitioner has offered to those workmen who have less than 18 months service left from 1st December 2006, full wages for the remaining months of service computed on the basis of the salary which they are presently drawing. Such of the workmen with less than 18 months of service who wish to avail of the offer shall communicate the same to the Petitioner within a period of one week from today. Payment shall be made of the salary representing the remaining months of service not later than 4 weeks of the date of receipt of each individual communication;

(ii) The Petitioner has similarly offered to those workers with a balance service of upto 3 years commencing from 1st December 2006 a severance package consisting of full salary for the first 18 months commencing from 1st December 2006 and 50% of the salary for the balance of the period left upto the date of retirement. The workmen who

are agreeable to the offer made by the management shall communicate their acceptance within a period of one week from today upon which payments due and outstanding in the aforesaid terms, computed on the basis of the salary presently drawn shall be made within a period of 4 weeks of the date of the receipt of communication from the worker concerned.

(iii) The management had retained 20 employees at the establishment at Vikhroli. The vacancies that arise at Vikhroli consequent upon the acceptance of the severance package by the concerned workers, governed by clauses (i) and (ii) hereinabove shall be filled up by the management from out of the workers who are transferred from Vikhroli to Patalganga. In doing so, the management shall give due priority in that order of preference to : (a) physically challenged persons and (b) women employees. The management, it is clarified shall apply the order of priority to the extent to which it is reasonably feasible having regard to the exigencies of work;

(iv) The rest of the employees other than those who opt for severance in accordance with clauses (i) and (ii) of the terms recorded hereinabove shall be liable to report at the establishment at Patalganga in accordance with the order of transfer;

(v) The management has undertaken that the conditions of service of the employees who have been transferred from the establishment at Vikhroli to the establishment at Patalganga shall not be prejudicially altered;

(vi) It has been agreed that the employees who are being transferred shall be allotted work in the general shift commencing from 8.30 a.m. or in the night shift commencing from 11.00 p.m. After the lapse of a period of one year from the date on which the workers report at Patalganga, the management would be at liberty to consider allocation of the workers to any other shift. The management and the union will discuss the issue in advance;

(vii) The management has agreed to enhance the re-location allowance payable to the workmen from Rs.500/- to Rs.750/- per month. However, it is clarified that the arrangements on account of transportation shall be made by the workmen themselves and/or by the recognized Union. In order to make arrangements for a centralized pick up and drop facility for the workmen at Thane and Dadar, the recognized union will endeavour to enter into an arrangement with the contractor if any, that the Company has engaged for providing hired buses to the Company. However, it is clarified that the arrangement in that regard including the arrangement for payment shall be entirely at the cost and responsibility of the recognized

Union. The Company has no objection to the use of the existing contractors by the Union for providing bus service;

(viii) The workmen who are governed by clauses (i) and (ii) above shall as stipulated be required to communicate the acceptance of the offer of the management within a period of one week. Those workers who do not accept the offer of the management and the balance of the workers who are not governed by clauses (i) and (ii) shall report at the Patalganga establishment no later than 14th December 2006;

(ix) The present order shall not preclude the Union from raising an appropriate Charter of Demands upon the expiry of the settlement dated 1st July 2002 with respect to the Vikhroli establishment in respect of the transferred workmen.

3. The present order has been passed in order to obviate hardship occasioned in the special facts and circumstances of the case and parties are agreed, since the order has been passed by consent, that this shall not form a precedent in future negotiations between the parties.

4. In view of the aforesaid understanding that has been arrived at between the parties, Complaint (ULP)

No.560 of 2006 before the Industrial Court is disposed of and the order dated 14th November 2006 is quashed and set aside.

5. The Petition is disposed of by consent since no other issue is pressed. There shall be no order as to costs.